

The Honorable Judge Benjamin H. Settle

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,
Plaintiff,
v.
TIP THE SCALE, LLC,
DBA LD KITCHEN AND BATH,
Defendant.

NO. 3:24-cr-05103-BHS

PLEA AGREEMENT

The United States, through Assistant Attorney General Todd Kim, and Senior Trial Attorney Patrick M. Duggan of the U.S. Department of Justice Environmental Crimes Section, and Tip the Scale, LLC, and its attorney, Sanjay Bhandari, enter into the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C).

1. **The Charge.** Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge contained in the Information:

a. Entry of Goods by Means of False Statements, as charged in Count 1, in violation of Title 18, United States Code, Section 542.

1 By entering this plea of guilty, Defendant hereby waives all objections to the form
2 of the charging document. Defendant further understands that before entering any guilty
3 plea, a designated representative for the Defendant will be placed under oath. Any
4 statement given by Defendant under oath may be used by the United States in a
5 prosecution for perjury or false statements.

6 2. **Elements of the Offense.** The elements of the offense to which Defendant
7 is pleading guilty are as follows:

8 Entry of Goods by Means of False Statements:

9 a. First, that the Defendant made, or procured the making of, a false
10 statement in any declaration without reasonable cause to believe the truth of such
11 statement;

12 b. Second, that the false statement was material to the introduction of
13 imported merchandise into the commerce of the United States;

14 c. Third, the Defendant introduced or attempted to introduce imported
15 goods into interstate commerce.

16 3. **The Penalties.** Defendant understands that the statutory penalties
17 applicable to the offense to which Defendant is pleading guilty are as follows:

18 a. For the offense of Entry of Goods by Means of False Statements, in
19 violation of Title 18, United States Code, Section 542: a maximum term of probation of
20 up to 5 years, a fine of up to \$500,000 or twice the gross gain or loss, and a mandatory
21 special assessment of \$400 dollars.

22 4. **The Sentence.** Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C),
23 the parties agree that an appropriate disposition of the case is as follows:

24 a. Criminal Fine: Pursuant to the Alternative Fines Act, 18 U.S.C. §
25 3571(d), the Defendant shall pay a criminal fine of \$110,000.

26 b. Probation and Environmental/Customs Compliance Plan:

1 i. Pursuant to 18 U.S.C. § 3561(c)(1), the Defendant will be
2 placed on probation for a term of three years, during which time it must comply with all
3 local, state, and federal laws, as well as any standard conditions of probation. In addition,
4 the Defendant will implement the Environmental and Customs Compliance Plan attached
5 hereto as **Exhibit A**.

6 ii. As a condition of probation, the Defendant will pay the
7 administrative penalty in CBP Case Number 202430013000280, which totals \$250,000,
8 pursuant to 19 U.S.C. § 1592(c)(2). The penalty may be paid in accordance with the
9 schedule set forth in paragraph 11.

10 c. Special Assessment: Pursuant to 18 U.S.C. § 3013(a)(2)(B),
11 Defendant will pay a special assessment of \$400 on or before the date of sentencing. The
12 special assessment shall be paid by check or money order payable to Clerk, U.S. District
13 Court. The check or money order should be provided to the Clerk of this Court, and
14 include the case name and case number.

15 The parties anticipate requesting that the Court accept the plea and enter
16 immediate sentence based on a joint motion. Defendant understands that the Court may
17 reject this Plea Agreement, and should the Court do so, the parties will be relieved of
18 their obligations under this Plea Agreement.

19 5. **Rights Waived by Pleading Guilty.** Defendant understands that by
20 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 21 a. The right to be indicted by a Grand Jury;
- 22 b. The right to plead not guilty and to persist in a plea of not guilty;
- 23 c. The right to a speedy and public trial before a jury of Defendant's
24 peers;
- 25 d. The right to the effective assistance of counsel at trial, including, if
26 Defendant could not afford an attorney, the right to have the Court appoint one for
27 Defendant;

1 e. The right to be presumed innocent until guilt has been established
2 beyond a reasonable doubt at trial;

3 f. The right to confront and cross-examine witnesses against Defendant
4 at trial;

5 g. The right to compel or subpoena witnesses to appear on Defendant's
6 behalf at trial; and

7 h. The right to appeal a finding of guilt or any pretrial rulings.

8 6. **Ultimate Sentence.** Defendant acknowledges that no one has promised or
9 guaranteed what sentence the Court will impose.

10 7. **Statement of Facts.** Defendant admits it is guilty of the charged offenses.
11 The parties agree on the following facts:

12 a. At all times relevant, Defendant was engaged in the importation of
13 finished kitchen cabinets made from wood.

14 b. Prior to November 2019, Defendant purchased and imported wood
15 kitchen cabinets from various manufacturers in China, including Taishan Dongxing
16 Trade Co. (Dongxing) and Taishan Jiahong Trade Co. (Jiahong), both of which are in
17 Taishan City, Guangdong Province, China. Invoices and bills of lading for both
18 companies all begin with the identifier "XYTSEA," and supply-side logistics were
19 handled by XYT Logistics in Guangdong Province, China. The Defendant's primary
20 contact within both Dongxing and Jiahong was a "Mr. Liu."

21 c. In October 2019, the United States implemented a 251% percent
22 Anti-Dumping Duty (ADD) on imports of wood cabinets from China exported by
23 Dongxing and a 28.71% ADD on imports of wood cabinets from China exported by
24 Jiahong.

25 d. On November 22, 2019, a shipment of wood cabinets from Taishan
26 Dongxing Trade Co., which was intended for the Defendant, arrived at the Port of
27 Tacoma. The cabinets were declared as originating in China on customs paperwork. The

1 U.S. Department of Agriculture (USDA) form PPQ-505, also known as a “Lacey Act
2 Declaration,” declared that the species of wood contained in the cabinets was “*Zelkova*
3 *Scheiana Hanf*” and “*Eucalyptus robusta Smith*” harvested in China (*Zelkova Scheiana*
4 *Hanf* is not a species, though *Zelkova schneideriana* is a species of tree native to
5 temperate China). The bill of lading number was XYTSE19100513, and supply-side
6 logistics were arranged by XYT Logistics. The shipment would have been subject to a
7 251% ADD. Defendant declined to import the shipment, and the products were re-routed
8 to Port Klang, Malaysia.

9 e. In December 2019, Mr. Liu notified the Defendant that he could
10 satisfy its order from a Malaysian factory called “JKA,” which would not be subject to
11 the 251% ADD. The Defendant then ordered cabinets from JKA.

12 f. On January 27, 2020, the Defendant received a shipment of cabinets
13 from JKA, which was imported through the Port of Tacoma. Supplier documentation for
14 the shipment was provided to the Defendant by XYT Logistics. The bill of lading and
15 commercial invoice were identical to prior shipments from Dongxing and Jiahong,
16 though these documents contained JKA’s logo. The format, part numbers, and various
17 distinctive terms were identical. The Lacey Act Declaration stated that the cabinets were
18 made from “*Zelkova Scheiana Hanf*” and “*Eucalyptus robusta Smith*” harvested in China.
19 The Defendant declared that the shipment originated in Malaysia, therefore the shipment
20 was not subject to ADD. The Defendant did not conduct appropriate due diligence or
21 independent research regarding the documents provided by their supplier.

22 g. On February 16, 2020, the Defendant received another shipment of
23 cabinets from JKA at the Port of Tacoma. The supplier coordination and documentation
24 were identical to the prior shipment with one exception. The Lacey Act Declaration for
25 the February 16, 2020, shipment stated that the cabinets were made from “*Zelkova*
26 *Scheiana Hanf*” and “*Eucalyptus robusta Smith*” harvested in Malaysia. The Defendant
27 declared that the shipment originated in Malaysia. The Defendant did not conduct

1 appropriate due diligence or independent research regarding the documents provided by
2 their supplier.

3 h. Three additional shipments from JKA, all of which followed the
4 same pattern as the February 16, 2020, shipment, were imported by the Defendant
5 through the Port of Seattle: two on March 15, 2020, and one on April 20, 2020.

6 i. On April 30, 2020, a shipment from JKA arrived at the Port of
7 Tacoma. United States Customs and Border Protection (CBP) officers conducted a
8 standard inspection of the cargo and noticed that the boxes of cabinets were not properly
9 labeled. Some boxes had a “made in China” stamp, but on the majority of the boxes, the
10 area that would have had a “made in China” stamp was cut out and removed. The
11 documents provided to CBP were the same as the prior four shipments, declaring that the
12 cabinets originated in Malaysia. The Lacey Act Declaration stated that the cabinets were
13 made from “*Zelkova Scheiana Hanf*” and “*Eucalyptus robusta Smith*” harvested in
14 Malaysia. Samples of these cabinets were sent to the U.S. Fish and Wildlife Service’s
15 National Forensics Laboratory (FWSFL) for species identification.

16 j. On September 17, 2020, the FWSFL provided results of forensic
17 testing conducted on the samples. No samples were found to be of the genus *Zelkova*. Of
18 the ten samples, seven were found to be made from *Betula* (birch) wood, and two were
19 found to be made from *Populus* (poplar) wood. Neither *Betula* nor *Populus* are typically
20 grown for production in Malaysia, but both are grown for production in the temperate
21 areas of China and Northern Asia.

22 k. Based on the facts and circumstances outlined above, the Defendant
23 did not have reasonable cause to believe the truth of the declarations made upon import:
24 namely, that the species of timber used included *Zelkova* species; that the timber was
25 harvested in Malaysia, and; that the products were manufactured in Malaysia.

26 8. **Abandonment of Contraband.** Defendant also agrees that, if any federal
27 law enforcement agency seized any illegal contraband that was in Defendant’s direct or

1 indirect control, Defendant consents to the federal administrative disposition, official use,
2 and/or destruction of that contraband.

3 9. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
4 the Government (the term “Government” here includes the Environmental Crimes
5 Section of the United States Department of Justice, U.S. Customs and Border Protection,
6 and the United States Attorney’s Office for the Western District of Washington) agrees
7 not to prosecute or pursue Defendant (or its individual agents and/or employees) for any
8 additional claims or offenses known to it as of the acceptance of this Plea Agreement
9 based upon evidence in its possession at this time, and that arise out of the conduct giving
10 rise to this investigation. In this regard, Defendant recognizes the Government has agreed
11 not to prosecute all of the criminal charges the evidence establishes were committed by
12 Defendant solely because of the promises made by Defendant in this Plea Agreement.

13 10. **Breach, Waiver, and Post-Plea Conduct.** This Agreement is effective
14 when signed by the Defendant, the Defendant’s attorney, and an attorney for the
15 Government. Defendant agrees that, if Defendant breaches this Plea Agreement, the
16 Government may withdraw from this Plea Agreement and Defendant may be prosecuted
17 for all offenses for which the Government has evidence. Any alleged breach of this Plea
18 Agreement shall be determined by the Court in an appropriate proceeding at which the
19 moving party shall be required to establish a breach of the Plea Agreement by a
20 preponderance of the evidence. Defendant also agrees that, if Defendant is in breach of
21 this Plea Agreement, Defendant has waived any objection to the re-institution of any
22 charges that previously were dismissed or any additional charges that had not been
23 prosecuted.

24 Defendant further understands that if, after the date of this Plea Agreement,
25 Defendant should engage in illegal conduct, or conduct that violates any conditions of
26 release or the conditions of confinement (examples of which include, but are not limited
27 to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while

1 pending sentencing, and false statements to law enforcement agents, the Pretrial Services
2 Officer, Probation Officer, or Court), the United States is free under this Plea Agreement
3 to file additional charges against Defendant or to seek a sentence that takes such conduct
4 into consideration by requesting the Court to apply additional adjustments or
5 enhancements in its Sentencing Guidelines calculation in order to increase the applicable
6 advisory Guidelines range, and/or by seeking an upward departure or variance from the
7 calculated advisory Guidelines range. Under these circumstances, the United States is
8 free to seek such adjustments, enhancements, departures, and/or variances even if
9 otherwise precluded by the terms of the Plea Agreement.

10 11. **Payment of Fine and Penalty.** The parties agree that, pursuant to 34
11 U.S.C. § 20101(b), 16 U.S.C. §§ 742l(c)(3) and 3375(d), the criminal fine set forth in
12 section 4a of this agreement shall be directed to the Lacey Act Reward Fund for use by
13 the Secretaries of the Interior and Commerce. The parties further agree that the fine and
14 penalty set forth in sections 4a and 4b of this agreement may be paid pursuant to a
15 schedule throughout the duration of probation. The payments shall not be less than as
16 follows:

- 17 a. For the first 12 months after sentencing, \$5,000 per month.
- 18 b. For the second 12 months after sentencing, \$10,000 per month.
- 19 c. For the final 12 months, \$15,000 per month.

20 The Defendant may, at any time, pay more than the scheduled amount, but not less, until
21 the total fine and penalty amount (\$360,000) is paid in full. The first \$110,000 paid shall
22 go to the criminal fine in section 4a (*i.e.*, to the Lacey Act Reward Fund), and the final
23 \$250,000 shall satisfy the administrative customs penalty as a condition of probation. The
24 Clerk of the Court may direct Lacey Act Reward Fund payments to the following
25 address: Lacey Act Reward Fund, USFWS, Cost Accounting Section, P.O. Box 272065,
26 Denver, CO 80227-9060, with the note "US v. Tip the Scale LLC." CBP payments shall
27

1 be directed to the Department of Treasury Agency Location Code 70050092 noting CBP
2 Case Number 2024300130002801-Tip the Scale LLC.

3 **12. Waiver of Appellate Rights and Rights to Collateral Attacks.**

4 Defendant acknowledges that, by entering the guilty pleas required by this Plea
5 Agreement, Defendant waives all rights to appeal from Defendant's conviction, and any
6 pretrial rulings of the Court, and any rulings of the Court made prior to entry of the
7 judgment of conviction. Defendant further agrees that, provided the Court imposes a
8 sentence that is within or below the Sentencing Guidelines range as determined by the
9 Court at the time of sentencing, Defendant waives to the full extent of the law:

10 a. Any right conferred by Title 18, United States Code, Section 3742,
11 to challenge, on direct appeal, the sentence imposed by the Court, including any fine,
12 restitution order, probation or supervised release conditions, or forfeiture order (if
13 applicable); and

14 b. Any right to bring a collateral attack against the conviction and
15 sentence, including any restitution order imposed, except as it may relate to the
16 effectiveness of legal representation.

17 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
18 attacking (except as to effectiveness of legal representation) the conviction or sentence in
19 any way, the United States may prosecute Defendant for any conduct.

20 **13. Voluntariness of Plea.** Defendant agrees that Defendant has entered into
21 this Plea Agreement freely and voluntarily, and that no threats or promises were made to
22 induce Defendant to enter a plea of guilty other than the promises contained in this Plea
23 Agreement or set forth on the record at the change of plea hearing in this matter.


24 **14. Statute of Limitations.** In the event this Plea Agreement is not accepted
25 by the Court for any reason, or Defendant breaches any of the terms of this Plea
26 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
27 the Plea Agreement to: (1) thirty days following the date of non-acceptance of the Plea

1 Agreement by the Court; or (2) thirty days following the date on which a breach of the
2 Plea Agreement by Defendant is discovered by the Environmental Crimes Section.


3 15. **Completeness of Plea Agreement.** The United States and Defendant
4 acknowledge that these terms constitute the entire Plea Agreement between the parties,
5 except as may be set forth on the record at the change of plea hearing in this matter. This
6 Plea Agreement binds only the Government. The Plea Agreement's fines, penalties and
7 other consequences represent a full and complete settlement of any and all claims,
8 demands and obligations that the Government might assert, including CPB (or DOJ on
9 behalf of CBP) pursuant to 19 U.S.C. §§ 1592 and 1595a and any other provision of law
10 under Title 19 of the United States Code or other customs laws, arising from or relating
11 to the statement of facts herein. It does not bind any other United States Attorney's Office
12 or any other office or agency of the United States, or any state or local prosecutor.

13
14 Dated this 13 day of June, 2024.

15
16 Todd Kim
17 Assistant Attorney General
18 Environment & Natural Resources Div.
19 U.S. Department of Justice

20 
21 Patriek M. Duggan
22 Senior Trial Attorney
23 Environmental Crimes Section
24 U.S. Department of Justice

25 
26 Tip the Scale, LLC,
27 dba LD Kitchen and Bath
28 Defendant

29 
30 Sanjay Bhandari
31 Buchalter, P.C.
32 Attorney for Defendant

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LD KITCHEN AND BATH IMPORTER'S COMPLIANCE PLAN

1. Commitment to Compliance

LD Kitchen and Bath ("LDKB" or the "Company") is committed to the highest standards of product quality, safety, and business integrity. LDKB requires that its officers, employees, contractors, and business partners (collectively, "agents") comply with all applicable laws and regulations, including those governing the importation of goods from overseas suppliers. This Importer's Compliance Plan is designed to help LDKB's agents comply with applicable U.S. law, including ensuring 1) familiarity with U.S. Customs and Border Protection ("CBP") regulations and the Harmonized Tariff Schedule of the United States ("HTSUS"); 2) accuracy of Customs entry documentation, including merchandise descriptions, tariff classification, valuation, country of origin, and merchandise markings; 3) non-use of forced labor; and 4) compliance with the Lacey Act.

2. Summary of Applicable Laws

a. Importer's Duty of Reasonable Care

U.S. law requires that importers use reasonable care procedures when importing goods into the United States. CBP expects "informed compliance" from importers, which means that importers should establish reliable procedures to ensure that their entry documentation is truthful and correct so that CBP can properly assess duties, collect accurate statistics, and determine whether all applicable legal requirements pertaining to the imported merchandise are met. These requirements of "informed compliance" and "reasonable procedures" apply to many different legal obligations involved in importation, including but not limited to the complete and accurate description of merchandise required by 19 U.S.C. § 1481; declared value under 19 U.S.C. § 1484 and 1401a; country of origin under 19 C.F.R. Part 134, Subparts B and E (and other); intellectual property rights restrictions under 19 C.F.R. § 133.21; forced labor laws including 19 U.S.C. § 1307 and 19 C.F.R. § 12.42 to 12.44; and antidumping or countervailing duty investigations or determinations, *see* 19 C.F.R. § 141.61.

b. Lacey Act

The Lacey Act makes it unlawful to import, export, transport, receive, buy, or sell covered materials (including wood products) taken or traded in violation of domestic or foreign laws designed to protect plants or animals.¹ This means that the import into the United States of plants or plant products harvested in violation of foreign law (including without appropriate permits) violates the Act. The Act includes a "due care" standard to encourage inquiry into legal harvest and sourcing of plant products. The Act also makes it unlawful to falsify or submit falsified

¹ *See* 16 U.S.C. § 3372(a); 7 C.F.R. § 357.1. Under the Lacey Act, "plant" includes "[a]ny wild member of the plant kingdom, including roots, seeds, parts or product thereof, and including trees from either natural or planted forest stands." 16 U.S.C. § 3371(f). Relevant information on the Lacey Act, regulations, and government guidance can be found at <https://www.aphis.usda.gov/plant-imports/lacey-act>.

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documents, accounts, or records of any plant covered by the Lacey Act or import plants and plant products (with some exemptions) without an import declaration.² Violations carry serious penalties for companies and individuals.³

3. Compliance Responsibility

- a. LDKB shall appoint a Chief Compliance Officer (CCO). The CCO shall be responsible for the oversight of the Company's import practices, including meeting all requirements of the Lacey Act and related regulations. The CCO shall report directly to LDKB's Chief Executive Officer (CEO) and is authorized to report on such matters to the CEO of the Company at any time.
- b. LDKB's CCO is Tran Dip, who can be reached at LD Kitchen & Bath, 1201 Puyallup Avenue, Tacoma, WA 98421, (253) 627-1172.
- c. LDKB's CCO will maintain access to appropriate Customs compliance resources for its import activities, including Title 19 of the United States Code; Title 19 of the Code of Federal Regulations; the HTSUS; Customs Rulings Online; and World Customs Organization (WCO) Explanatory Notes.
- d. LDKB employees must advise LDKB's CCO of any proposal to import goods before a contract for the purchase and import of goods is signed or a purchase order is issued and may not proceed with any proposal to import goods without the approval of the CCO.
- e. The CCO will maintain a record of the disposition of each request to import.

4. Supplier Validation

The CCO shall be responsible for implementing procedures designed to ensure that LDKB does not conduct import business with suppliers and other vendors whose products or activities are in violation of the U.S. Customs laws and regulations administered by CBP.

All LDKB suppliers of products originating outside the United States will be required to certify that they have implemented reasonable procedures to ensure compliance with all applicable trade

² See USDA, "Violating the Lacey Act Declaration Requirement," available at <https://www.aphis.usda.gov/plant-imports/lacey-act/violation>.

³ Individuals and companies may face criminal penalties if they knowingly, and in some cases with lack of due care, violate the Lacey Act. A misdemeanor violation of the Lacey Act, punishable by up to one year in prison and a fine of \$100,000 for individuals and \$200,000 for companies, may result if, in the exercise of due care, the individual or the company should have known that the wood or plant product it purchased was illegally taken, possessed, transported, or sold. Felony culpability, punishable by up to five years in prison and a fine of \$250,000 for individuals and \$500,000 for companies, may arise for knowing violations of the Lacey Act. In addition to criminal penalties mentioned above, the Lacey Act authorizes civil fines and/or forfeitures for violations. Forfeiture of illegally trafficked plants may be imposed whether or not the owner knew or should have known of the illegality. Forfeiture of the instrumentalities of a Lacey Act violation (for example, vehicles used to transport the illegal material, or to harvest or process it) may occur after a felony conviction is entered as to an individual or company. 16 U.S.C. §§ 3371, *et seq.*

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laws, including the Lacey Act. LDKB will obtain a written description of the supplier's Lacey Act compliance procedures prior to ordering any goods from the supplier.

When considering a contractual relationship with a new supplier or vendor of merchandise that LDKB intends to import into the United States, the CCO will complete a series of procedures to ensure the vendor is able to meet the Company's standards. These procedures will include, but are not limited to:

- a. A risk assessment as described herein;
- b. A sample purchase order-level evaluation as described herein; and
- c. An in-person audit by an LDKB employee, appropriate third-party certification body, or third-party auditor with specialized industry experience.

The CCO will be responsible for memorializing the above steps. The CCO must provide written authorization to conduct business with a new supplier before the Company engages in any transactions with that new supplier.

a. Risk Assessment

Before establishing or continuing a relationship with a foreign supplier, LDKB will use a risk-based approach to the implementation of the various elements of its import compliance program, including compliance with the Lacey Act.

- a. The Risk Assessment shall be implemented according to the following schedule:
 - (i) For a new supplier of wood products located outside the United States, prior to the import or shipment to the United States;
 - (ii) For an existing and continued supplier of wood product located outside the United States, by no later than July 31, 2024;
 - (iii) For an existing and continued supplier of wood products that LDKB imports, prior to onboarding or shipping to the United States any product line or SKU that includes a high-risk product or plants that are listed on any Appendix of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (without regard to purported country of origin for Appendix III species); although if such a supplier has already undergone a full risk assessment within the previous twelve months, a targeted risk assessment, which must include an in-person site visit, may be conducted with regard to the new product line/SKU.
- b. In evaluating risk of a foreign supplier of merchandise that LDKB imports, LDKB's CCO will consider, in addition to other factors:
 - (i) Product Risk:
 - (1) Any legal/regulatory requirements related to the raw materials for a specific product (such as logging bans or export quotas);

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- (2) Reported instances of illegal or unethical logging in the relevant geographical region or related to the relevant product or species;
 - (3) The potential for species substitution;
 - (4) The protected status of the species used in the product;
- (ii) Foreign Supplier Risk
- (1) The level of vertical integration between forest and supplier;
 - (2) Country-level corruption ratings from third party sources;
 - (3) Legality concerns noted by private sector or government third parties;
 - (4) Unusual “deals” or sales methods (e.g., kickbacks);
 - (5) Relative market and offer prices;
 - (6) Results of an in-person audit at the supplier’s place of business, completed by an LDKB employee, third-party certification body, or third-party auditor with specialized industry expertise; and
 - (7) The foreign supplier’s past and present ability to provide documentation that appears to be legitimate and consistent with legal harvest and sufficient to demonstrate chain of custody.
- c. LDKB, may also consider the following factors,
- (i) The length of the relationship between LDKB and the supplier;
 - (ii) The importance of the product to LDKB; and
 - (iii) The amount of a product purchased per year or the amount of product purchased from a supplier per year;

Once all of these factors, and any others found to be appropriate, are considered as part of an objective matrix and are given a risk level, the Company will designate each supplier and plant products species as low risk, medium risk, or high risk, and set out specific restrictions regarding doing business with each supplier, such as additional approval or other monitoring requirements (if any) beyond what is set forth herein that are deemed appropriate. If the supplier is providing a product that is considered high risk per the above factors, then that supplier will automatically be considered high risk. Further, the factors enumerated in subparagraph c) above may not constitute more than 10% of any objective risk matrix.

If a supplier is considered medium or high risk, then the CCO must give initial approval before any product is purchased or any transactions are completed that would result in a shipment to United States of product from such a supplier. The CCO must make a written record of the decision-making process.

LDKB will evaluate a supplier of merchandise it imports every three years if low risk, every two years if medium risk, and every year if high risk. If the Company has never purchased products

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from the supplier, then the evaluation must take place before the Company begins to import product from that supplier into the United States.

LDKB will continuously evaluate a risk assessment of its import activities to stay current with legislative/regulatory updates and external trends. The CCO shall be responsible for the development and implementation of risk-assessment procedures designed to address all components of the Import Compliance Program, but any modifications to the Program shall not be less stringent than what is set forth in this Framework.

b. Purchase Order Review

The CCO shall be responsible for creating and implementing a risk-based approach to ensure that LDKB's Purchase Orders ("POs") for merchandise that LDKB intends to import into the United States comply with the Lacey Act. The purpose of the PO review is not just to audit the PO documents, but to ensure that by July 31, 2024, LDKB can establish an unbroken and verified chain of custody for its imported merchandise from itself back to the product's source using documentation down to the forest level.

At a minimum, prior to its importation of any wood product, LDKB's CCO or other employee shall:

- i) Review and catalog all supplemental documentation showing the harvest location, harvest legality, and chain of custody for timber used to fulfill each purchase order.
- ii) If the documentation is not written in a language known to the reviewing staff, the Company shall procure a translation;
- iii) Review relative market and offer prices;
- iv) Determine whether the supplemental documentation has been previously used;
- v) Determine whether the supplemental documentation supports the quantity of timber included in the PO;
- vi) Determine whether all supplemental documentation is internally consistent and rational (e.g., the timber species is the same across all documents, there are no extensive temporal gaps, the timing is rational, the species actually grows in that area, etc.);
- vii) Review the PPQ-505 declaration to determine if all information is consistent with and supported by supplemental documentation;
- viii) Submit the PPQ-505 declaration at the time of import, prior to submission to USDA-APHIS; and
- ix) Document the decision as to whether the purchase order, in consideration of above factors and the product and supplier risk, reasonably appears to be legally sourced, including the basis for that decision.

Required documentation may be compiled by a non-U.S. based employee trained in Lacey Act compliance that reports to LDKB's CCO. Additional monitoring and auditing processes (if

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deemed appropriate) conducted by U.S. based employees reporting to the CCO (either on a full time or project basis) shall be implemented, based on risk level of product and supplier. To be clear, each PO for a medium or high-risk product or from a medium or high-risk supplier shall be reviewed and analyzed as above and requires clearance before LDKB imports the merchandise into the United States, and if cleared, such clearance must be signed off by the CCO, or the CCO's designee.

If any purchase order is not accompanied by sufficient supplemental documentation to support legality, or the PPQ-505 declaration cannot be supported by the supplemental documentation, then LDKB will not accept the product until such documentation is provided to LDKB. If the documentation is not provided within a reasonable time, then LDKB will not import the product. If a product has already been shipped at the time that a deficiency is identified, then the Company shall reject the product and ship it back to the supplier.

5. Miscellaneous

c. Auditing and Monitoring

The CCO, using either internal or third-party resources, shall ensure that appropriate auditing and monitoring procedures are conducted of all foreign suppliers approved through the risk assessment and validation processes described above. These procedures shall include field and desk audits to verify that Company requirements are being met, identification of necessary corrective action, and ensuring that ongoing monitoring is incorporated into the Company's import activities.

LDKB will engage an auditor, to be determined by LDKB and approved by the government, and pay for an audit of the compliance procedures set forth here. The audit will be commenced upon the government's request, not less than one year after the compliance plan begins. The audit report will be provided to the government and LDKB. The government and LDKB will then confer in good faith to determine whether any additional audits or other measures are appropriate and/or necessary.

d. Remediation and Mitigation

The CCO shall be responsible for remediation and mitigation. Corrective action plans and verification procedure(s) shall be used when missteps are detected during audit monitoring and/or review processes, or otherwise. If, at any point during its import activities, the Company becomes aware that a product does not adhere to LDKB's requirements, the Company will reject the shipment and refuse to import, return, and/or refuse receipt of the product as appropriate at that point in the import cycle. Further, LDKB may require DNA and/or isotope testing of products as needed to verify that the genus, species, and/or growing region of a raw material used to produce a product is consistent with the information provided by the supplier. For any medium or high-risk products, a program of random species identification of products will be developed and implemented on an ongoing basis beginning no later than September 30, 2024.

If, at any point, an LDKB employee determines that the Company is not internally capable of sufficiently auditing or evaluating a supplier or a product, then that concern should be reported through appropriate channels to the CCO. The CCO shall make a record of the concern, consider the concern, and where appropriate, either increase internal capabilities as needed, or engage a

U.S. v. Tip the Scale, LLC, 3:24-cr-05013
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third-party to conduct the activities that the Company cannot sufficiently complete internally. If the decision is made that the reported concern was unfounded, the CCO shall make a record of that decision and the basis therefore.

e. Training and Communication

Annual training regarding the Company's import compliance program will be required for all officers and employees participating in importation. The CCO will identify such persons, and tailor training based upon the degree to which the persons' duties relate to Lacey Act and import compliance. A record will be maintained of the identity and position of each person trained each year, and the date(s) of training.

f. Disciplinary Action for Non-Compliance

Any Company employee or agent who is found to have violated any of the procedures contained in the Company's Import Compliance Program will be subject to disciplinary action including possible termination. The Company will maintain records related to any such disciplinary action in the personnel files of any affected employee.

e. Reporting Violations

LDKB's officers and employees are required to promptly report suspected violations of any of the laws discussed herein to LDKB's CCO. If an officer or employee wishes to remain anonymous, he or she may make an anonymous report addressed to the CCO, providing as much detail as possible, including copies of any documents he or she believes may be relevant to the issue.

e. Anti-Retaliation Policy

LDKB strictly prohibits any form of retaliatory action against anyone who in good faith raises issues, asks questions, makes reports, participates in an investigation, refuses to participate in suspected improper or wrongful activity or otherwise exercises workplace rights protected by law. Retaliatory action includes but is not limited to demotion, suspension, termination, and creating a hostile work environment. LDKB prohibits retaliation even if concerns raised are not confirmed following an investigation.

f. Records Retention

LDKB will retain all records related to import compliance for a minimum of 5 years.